

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
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PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

15 SEP 2004

Applicant's or agent's file reference

PS1368

IMPORTANT NOTIFICATION

International application No.	International filing date (day/month/year)	Priority date (day/month/year)
PCT/US03/24569	06 August 2003 (06.08.2003)	06 August 2002 (06.08.2002)

Applicant

SMITHKLINE BEECHAM CORPORATION

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

SEARCHED
INDEXED
FILED
P 17 P 12:03

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P51368	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/24569	International filing date (day/month/year) 06 August 2003 (06.08.2003)	Priority date (day/month/year) 06 August 2002 (06.08.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): A61K 31/425, 31/428 and US Cl.: 514/365, 366, 367		
Applicant SMITHKLINE BEECHAM CORPORATION		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of ___ sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 		

Date of submission of the demand 30 January 2004 (30.01.2004)	Date of completion of this report 06 September 2004 (06.09.2004)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Valerie Bell-Harrison</i> Brian Kwon Telephone No. (571) 272-1600

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/US03/24569

I. Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed. the description:

pages 1-109 as originally filed

pages NONE filed with the demandpages NONE filed with the letter of _____ the claims:

pages 110-115 as originally filed

pages NONE as amended (together with any statement) under Article 19pages NONE filed with the demandpages NONE filed with the letter of _____ the drawings:pages NONE as originally filedpages NONE filed with the demandpages NONE filed with the letter of _____ the sequence listing part of the description:pages NONE as originally filedpages NONE filed with the demandpages NONE filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in printed form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages NONE the claims, Nos. NONE the drawings, sheets/fig NONE5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The question whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

the entire international application.
 claims Nos. 1-2 and 5-9

because:

the said international application, or the said claim Nos. _____ relate to the following subject matter which does not require international preliminary examination (specify):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1,2 and 5-9 are so unclear that no meaningful opinion could be formed (specify):

Claims 1, 2 and 5-9 relate to a compound represented by the formula I. However, there is no definition (R2)0 in the claims and consequently makes the claimed subject matter unclear. Support within meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only specific species in claims 3-4. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been carried out for those parts of the claims which appear to be supported and disclosed, namely the specific species of the formula I disclosed in claims 3-4 of the description.

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. _____

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the standard.
 the computer readable form has not been furnished or does not comply with the standard.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>3-4</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>3-4</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>3-4</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Document D1 (US 2003/0229084 A1) discloses preparation of barbituric acids derivatives and use it for the treatment of inflammatory disease.

Claims 3-4 do meet Novelty and Inventive Step criteria under PCT 33(2)-(3) since the subject matter is not fully disclosed in the prior art.

Claims 3-4 do meet Industrial Applicability criteria under PCT 33(4) since the claimed compounds is applicable to the therapeutic utility.

NEW CITATIONS -----